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# State of Utah

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt  
Governor

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April 18, 1997

Wendell Owen  
Co-Op Mining Company  
P.O. Box 1245  
Huntington, UT 84528

Re: Conclusions of Order dated May 20, 1991, Co-Op Mining Company, Bear Canyon Mine, ACT/015/025, Folder #3, Emery County, Utah

Dear Mr. Owen:

Requirements of the Order by the Division dated May 20, 1991 have been met with the exception of Item #27. The requirement for Item #27 stated: "Drainage or pumping of in-mine water to the old mine workings north of the Big Bear and Birch Springs will be controlled and monitored as stipulated by the Division with revision of that procedure only as directed by the Division and with the prior approval of the Division."

Currently the permit, which has not been renewed to date but is under administrative delay by the Board, includes all of the Order as a condition to the permit. This permit has been changed to include only Item #27, see attached.

If you have any questions, please call me.

Sincerely,



Mary Ann Wright  
Associate Director of Mining

Enclosure

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STATE OF UTAH  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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|------------------------|---|-----------------------|
| IN THE MATTER OF THE   | : | ORDER                 |
| PERMIT RENEWAL FOR THE | : |                       |
| CO-OP MINING COMPANY'S | : | INFORMAL HEARING      |
| BEAR CANYON MINE,      | : | CAUSE NO. ACT/015/025 |
| EMERY COUNTY, UTAH     | : |                       |

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On February 5, 1991, the Division held an Informal Hearing regarding the above-captioned matter in Castle Dale, Utah. The hearing was transcribed. The following individuals were present and participated in the informal hearing.

|                      |   |
|----------------------|---|
| Presiding:           | Dianne R. Nielson, Director<br>Division of Oil, Gas and Mining                                      |
| For the Protestants: | Darrel Leamaster, District Manager<br>Castle Valley Special Service District                        |
|                      | Menco Coppinga, President<br>North Emery Water Users Association                                    |
|                      | Jeffrey Appel, Esq.<br>Haley and Stolebarger<br>Attorney for North Emery Water<br>Users Association |
|                      | Mrs. Varden Willson<br>(on behalf of Varden Willson)<br>Huntington-Cleveland Irrigation<br>Company  |
|                      | Scott Johansen, Esq.<br>Attorney for Huntington City  |
|                      | S. Bryce Montgomery<br>Consultant for Castle Valley Special<br>Service District                     |

For the Respondent: Kimberley C. Mangum  
Consultant for Co-op Mining Company

Bill Stoddard  
Co-op Mining Company

Carl E. Kingston, Esq.  
Attorney for Company

Wendell Owen  
Co-op Mining Company

For the Division of  
Oil, Gas and Mining: Thomas A. Mitchell, Esq.  
Assistant Attorney General

Pamela Grubaugh-Littig  
Permit Supervisor

Thomas Munson  
Reclamation Hydrologist

Other Appearances: Grant Wilson  
Huntington City

In accordance with arrangements made by the Protestants following the hearing, Jeffrey W. Appel was designated the representative of all the Protestants for the purposes of notice and response regarding this matter.

NOW THEREFORE, the Division of Oil, Gas and Mining (Division) having fully considered the protests and responses of the parties, as filed prior to and as part of the hearing, and the supplements to the record, as well as the actions of the Division as represented in Division records, now makes and enters its Order as follows:

#### FINDINGS OF FACT

1. The Informal Hearing was properly scheduled and noticed

in accordance with the Utah Administrative Procedures Act (Utah Code Ann. § 63-46b-1 et seq.) and the Utah Coal Mining and Reclamation Act (Utah Code Ann. § 40-10-1 et seq.).

2. Additional extensions provided for the purpose of supplementing the record in the Informal Hearing were properly noticed and granted.

3. Inspection and enforcement records for the duration of mining operations at the Bear Canyon Mine indicate that Co-op Mining Company (Co-op) has been cited with Notices of Violation (NOV), Cessation Orders (CO), and Failure to Abate Cessation Orders (FTA CO). However, Co-op Mining Company has abated or is within the designated timeframes for abating enforcement actions. Co-op Mining Company has not established a pattern of willful and knowing violations. Co-op Mining Company is not subject to permit revocation or denial at this time.

4. Geologic and hydrologic evidence provided by the parties suggests that the potentiometric surface of the Blackhawk-Star Point aquifer is below the level of current mining in the Bear Canyon Mine.

5. The necessary information is available for evaluation of the hydrology within the existing Bear Canyon Mine workings.

6. There is no evidence that mining within the presently permitted coal seam in the Bear Canyon Mine will impact the potentiometric surface of the Blackhawk-Star Point aquifer. There is evidence that piping of water, as described below in Paragraph 7, may have influenced the quantity of flow from

outcroppings at or near Big Bear or Birch Springs in the recent past.

7. Within the Bear Canyon Mine, water has been piped from a seep at the north end of the mine workings to the mine entrance, where it discharged in accordance with the permit. However, in the past, excess flow in that line was pumped or allowed to flow into abandoned mine workings located at the south end of the mine, directly north of Big Bear Spring and Birch Spring. Co-op has replaced a portion of that pipe with larger diameter pipe to enable the line to better accommodate flow from the mine. Co-op has also installed a meter on the line which will measure any overflow into the abandoned workings. There is some evidence that this past diversion of flow into the old workings may have influenced the quantity of water seeping from outcrops above Big Bear and Birch Springs.

8. There is insufficient geologic and hydrologic evidence available to determine the impacts of mining, in the proposed Bear Canyon Lease Extension (Lease Extension) to the north of the existing Bear Canyon Mine, on the quantity and quality of water in Big Bear Spring and Birch Spring.

9. There is insufficient evidence to know the location of the potentiometric surface of the Blackhawk-Star Point aquifer to the north of the existing Bear Canyon Mine workings.

10. There are other mining operations on the northern extensions of the fracture and fault systems which may control surface water and groundwater flow from the springs below the

permit area. However, evidence to determine specific impacts of those operations on groundwater feeding these springs is inconclusive.

11. In order to evaluate the current probable hydrologic impact of mining adjacent to and in the proposed Lease Extension to the north of the currently permitted Bear Canyon Mine, additional monitoring wells must be drilled and sampled to evaluate the location, quantity, and quality of the Blackhawk-Star Point aquifer.

12. Sampling of Big Bear Spring and Birch Spring is necessary to evaluate the current probable hydrologic impact of mining adjacent to and in the proposed Lease Extension north of the presently permitted Bear Canyon Mine, as well as to provide complete monitoring data from existing operations in the Bear Canyon Mine. Sampling should include both quantity and quality of spring flow including sampling at times when the spring is not overflowing the lock box. This will necessitate establishing arrangements to allow Co-op Mining Company or a third party to unlock the box at regular intervals for sampling purposes.

13. Evidence concerning the increased sulfate content in Big Bear Spring does not indicate the cause of the increase.

14. Evidence of the impact of drought conditions over the last five years, as well as the impacts of earthquakes in the vicinity of the Bear Canyon Mine, have not been fully evaluated by the parties in terms of the potential effect on the past and current quantity of water from Big Bear and Birch Springs.

15. Technical information and arguments support the extension of geologic structures which may control groundwater flow north of and within the Bear Canyon Mine. However, the hydrologic evidence is conflicting and insufficient to support the "reasonable likelihood" of adverse impacts of mining on water quantity and quality at Big Bear and Birch Springs.

#### CONCLUSIONS OF LAW

##### EXISTING PERMIT AREA

16. Pursuant to Utah Admin. R. 614-300-154, as to those lands specifically designated as the permit area within the permittee's original permit application, and approved in accordance with R. 614-300-151, the permittee has a right of successive renewal.

17. The right to successive renewal is granted pursuant to Utah Code Ann. § 40-10-9(4)(a). The terms of this statutory right are included and made a part of R. 614-303-230.

18. Both by statute and by rule the burden of proof rests upon the opponent to permit renewal to demonstrate the specific exceptions set forth by statute and rule for denying permit renewal.

19. Protestants have set forth factual contentions to support their allegations that four of the five statutory exemptions to renewal are present. The Division concludes that protestants have failed to support these allegations.

#### NEW PERMIT AREA

20. Pursuant to Utah Code Ann. § 40-10-9(4)(b) an extension of a permit area as a portion of the application for renewal of a valid permit is subject to the full standards applicable to new applications under the statute. Pursuant to Utah Code Ann. § 40-10-11(1) the applicant for a permit, or revision of a permit, shall have the burden of establishing that his application is in compliance with all the requirements of the code.

21. The Division concludes that Co-op has not met its burden of proof with regard to demonstrating the probable hydrological impact of any extension beyond its present permit boundaries.

#### ORDER

22. The Permit for Co-op Mining Company's existing mining operation at the Bear Canyon Mine (ACT/015/025) is hereby renewed for a period of five years from the date of expiration of the prior permit. This permit renewal provides for operations of the Bear Canyon Mine to continue to the extent that those operations are conducted within the existing permit area and the disturbed areas as they existed under the prior permit. These operations will be in accordance with the statute and rules, and subject to orders or other actions of the Division governing the operations under this permit.

23. The proposed permit application to enter and mine an adjacent Federal Coal lease to the north of the existing mine



(Lease Extension) is denied.

24. No additional coal mining and reclamation operations at the Bear Canyon Mine beyond those currently approved in the permit will be considered for approval by the Division until the Probable Hydrologic Impact (PHC) analysis has been revised, based on additional drilling and monitoring of groundwater and surface water flow, quantity, and quality. This limitation in terms of mining and reclamation operations includes but is not limited to any mining in coal seams above or below the currently-approved mine workings within the permit area, as well as any mining outside the current permit area.

25. Any future proposal to mine beyond the existing permit area or in coal seams above and below the current workings will be treated as a request for permit revision, with the opportunity for public comment.

26. The requirements for additional drilling and monitoring of the surface and subsurface hydrology will be determined by the Division. At a minimum, this will include drilling and monitoring 3 wells, located within and adjacent to the current permit area, for the purpose of evaluating the hydrologic gradient and water quality. Drilling of monitoring wells will be the requirement of and at the expense of Co-op Mining Company. The existing monitoring program for Big Bear and Birch Springs will be revised to include water quantity and quality measurements from lock boxes. Data will be provided to the Division and the appropriate water user associations. Such

monitoring will be at the expense of Co-op Mining Company and may be conducted by Co-op or by a third party, as agreed upon by the Protestants and Co-op Mining Company, in order to ensure access to the lock boxes at the Big Bear and Birch Springs.

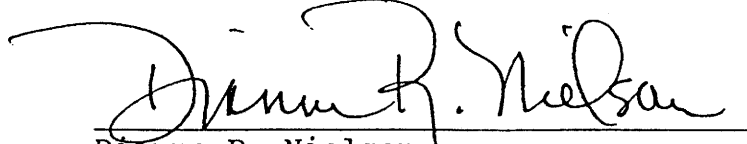
27. Drainage or pumping of in-mine water to the old mine working north of the Big Bear and Birch Springs will be controlled and monitored as stipulated by the Division, with revisions of that procedure only as directed by the Division and with the prior approval of the Division.

28. The requirements of this Order which are applicable to the present permit are included and made a part of the permit terms at issuance of the renewed permit for the Bear Canyon Mine.

29. Prior to any approval of coal mining and reclamation operations beyond the existing authorized operations, Co-op Mining Company must demonstrate and the Division must find that said operations have been designed to prevent material damage to the hydrologic balance outside of the permit area, in accordance with Utah Code Ann. § 40-10-10(2)(c) and Utah Admin. R. 614-300-133.400.

ORDERED and issued this 20th day of May, 1991.

STATE OF UTAH  
DIVISION OF OIL, GAS AND MINING

  
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Dianne R. Nielson  
Director

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing ORDER to be mailed first class, postage prepaid, this 20th day of May, 1991, to the following:

Mr. Darrel V. Leamaster  
Castle Valley Special Service District  
P.O. Box 877  
Castle Dale, Utah 84513

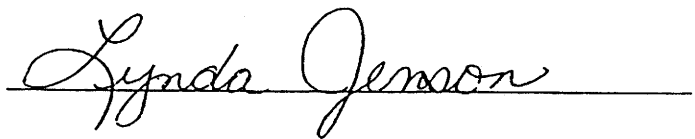
Mr. Menco Copinga  
North Emery Water Users Association  
Box 418  
Elmo, Utah 84521

Mr. Varden Willson  
Huntington-Cleveland Irrigation Company  
55 North Main  
Huntington, Utah 84528

Mr. Carl Kingston, Esq.  
53 West Angelo Avenue  
P.O. Box 15809  
Salt Lake City, Utah 84115

Mr. Scott Johansen, Esq.  
Huntington City Attorney  
P.O. Box 1099  
Castle Dale, Utah 84513

Mr. Jeffrey Appel, Esq.  
Haley & Stolebarger  
10th Floor Walker Center  
175 South Main  
Salt Lake City, Utah 84111-1956

A handwritten signature in cursive script, reading "Lynda Jensen", is written over a horizontal line.